# CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	☐ U.S.
Nathaniel Flack		Squad #5	201704663	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Sunday, 06/04/2017 2:30 PM		§ 87(2)(b)		13	12/4/2018	12/4/2018
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	e Received at CCI	RB
Fri, 06/09/2017 8:09 PM		Precinct	Call Processing System	Fri, 06/09/	/2017 8:09 PM	
Complainant/Victim	Type	Home Addre	ess			
Witness(es)		Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. SGT Jocelyn Peralta	1767	930927	013 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POM Christophe Mcneely	23479	954121	013 PCT			
2. POM Michael Cangelosi	04586	950152	013 PCT			
3. POF Judith James	23599	960721	013 PCT			
4. POF Samantha Williams	29420	954428	013 PCT			
5. POM Joseph Droge	01478	951696	013 PCT			
Officer(s)	Allegatio	on		Invo	estigator Recon	nmendation
A.SGT Jocelyn Peralta	Abuse: S § 87(2)(b)	ergeant Jocelyn Peralta	entered and searched in Manhatt			
B.SGT Jocelyn Peralta	Abuse: Sergeant Jocelyn Peralta damaged § 87(2)(b) s property.					
C.SGT Jocelyn Peralta	Abuse: Sergeant Jocelyn Peralta removed § 87(2)(b) to the hospital.					

## **Case Summary**

filed this complaint via the CCRB call processing system on June 9, 2017.				
On June 4, 2017, at approximately 2:30 pm, Sgt. Jocelyn Peralta, PO Michael Cangelosi, PO Christopher McNeely, PO Judith James, and PO Samantha Williams, all of the Midtown South Precinct, responded to \$37(2)(b) s apartment at \$37(2)(b) s son, \$37(2)(b) s did not respond to Sgt. Peralta's attempts to make contact through the door, Sgt. Peralta reportedly requested that ESU respond to forcibly enter the apartment (Allegation A). When ESU arrived and began to do so, they allegedly removed the peephole from \$37(2)(b) s door (Allegation B). \$37(2)(b) s door (Allegation B). \$37(2)(b) s door and was placed in handcuffs. Sgt. Peralta brought \$37(2)(b) s door and monitored \$37(2)(b) s movements (Allegation A, continued). \$37(2)(b) s movements (Allegation A, continued). \$37(2)(b) s movements and released several hours later following a determination that she was not a danger to herself or others.				
This case is being submitted more than 90 days after it was assigned due to Sgt. Peralta's repeated interview scheduling conflicts over a period of four weeks.				
No video footage was available for this incident.				
Civilian and Officer CCRB Histories				
<ul> <li>This is the first CCRB complaint in which \$87(2)(b) or \$87(2)(b) is involved (Board Review 01).</li> <li>Sgt. Peralta has been a subject of four prior allegations in three prior CCRB complaints. None of the allegations was substantiated, \$87(2)(g)</li> </ul>				
Mediation, Civil, and Criminal Histories				
<ul> <li>\$87(2)(b) rejected mediation.</li> <li>As of October 17, 2017, no Notice of Claim regarding this incident has been filed with the Office of the Comptroller (Board Review 17).</li> <li>\$87(2)(b), \$87(2)(c)</li> </ul>				
Determination Laurence				
<u>Potential Issues</u>				
• §87(2)(b) provided a phone statement (Board Review 03) but did cooperate with attempts to obtain a verified statement.				

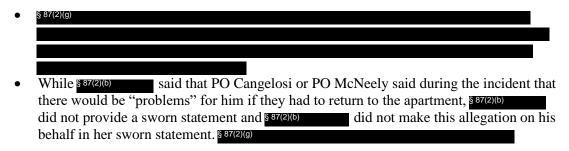
Page 2

CCRB Case # 201704663

•	§ 87(2)(b)	provided limited medical records pertaining to the incident (Board Review
	04) but decline	ed to sign HIPAA release forms allowing the CCRB greater access to
	medical record	ds for the incident.

#### **Findings and Recommendations**

#### **Allegations Not Pleaded**



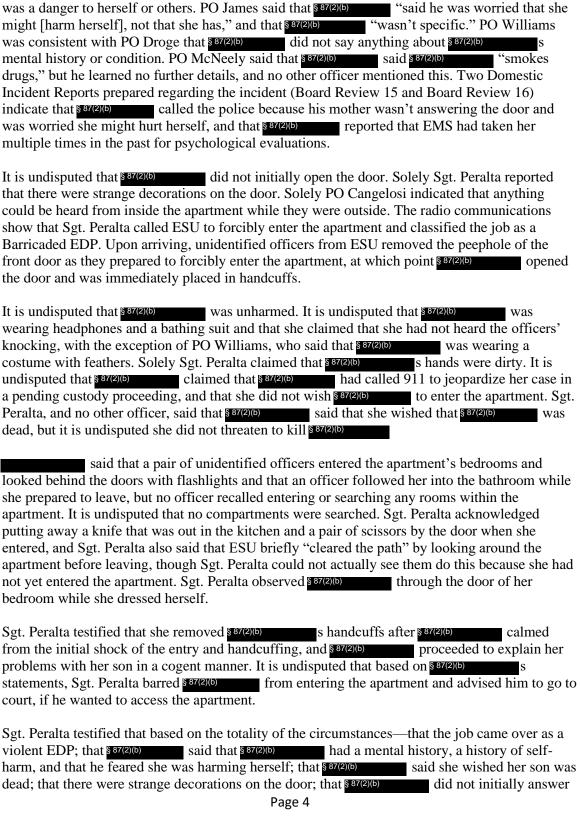
#### **Subject Officer Identification**

Given that Sgt. Peralta (Board Review 07) was the highest ranking officer on the scene and acknowledged making the decision enter the apartment and remove structure to the hospital, the entry, search, and removal allegations are being pleaded solely against Sgt. Peralta. Similarly, because the removal of structure speephole was alleged to have occurred in the course of the entry ordered by Sgt. Peralta, the property damage allegation is also pleaded against Sgt. Peralta.

### Allegation A – Abuse of Authority: Sergeant Jocelyn Peralta entered and searched § 87(2)(b) in Manhattan. Allegation C – Abuse of Authority: Sergeant Jocelyn Peralta removed \$87(2)(6) to the hospital. It is undisputed that \$87(2)(b) called 911 (Board Review 22) regarding his mother, after he was unable to gain access to her apartment. Based on the information provided by \$87(2)(b) a 911 dispatcher put over the radio that there was an EDP who is "violent, unknown weapons at this time," inside of \$87(2)(b) Communications (Board Review 08) and Event Documents (Board Review 09) indicate that Sgt. Peralta was informed that § 37(2)(b) was not opening the door. It is undisputed that Sgt. Peralta, her operator PO Droge (Board Review 10), PO Cangelosi (Board Review 11), PO McNeely (Board Review 12), PO James (Board Review 13), and PO Williams (Board Review 14) responded to the scene. It is undisputed that when officers arrived on scene, \$87(2)(b) met them and provided additional information. §87(2)(b) indicated that he solely told the officers that §87(2)(b) was not mentally sound and that she had previously been taken to §87(2)(b) after keying someone's car. § 87(2)(g) Sgt. Peralta testified that \$87(2)(b) indicated that \$87(2)(b) had access to a knife, that she was trying to kill herself, that he believed this because she was refusing to open the door, and that \$87(2)(b) had previously tried to harm herself. PO Droge did not recall saying anything about \$87(2)(b) s mental health or anything suggesting that she

Page 3

CCRB Case # 201704663



CCRB Case # 201704663

the door; that \$87(2)(b) was wearing a swimsuit and had dirty hands; and that \$87(2)(b) was upset when she was placed in handcuffs—she determined that \$87(2)(b) was an EDP.
No officer testified that \$87(2)(b) resisted being handcuffed, engaged in any violent behavior, or made any threats.
It is undisputed that Sgt. Peralta determined that \$87(2)(b) needed to be removed to the hospital. Sgt. Peralta testified that the decision was a precaution, and that it would allow \$87(2)(b) to "prove to the doctor that she's okay." It is undisputed that \$87(2)(b) did not wish to be removed to the hospital, but that she was forced to go.
was evaluated at the strict psychiatric emergency room. The evaluation concluded that strict was not a danger such that she could be admitted to the hospital, and she was released the same day she was evaluated.
Officers may enter a home under the emergency circumstances exception when they have a reasonable basis to believe that there is an immediate need for their assistance for the protection of life or property. The requirement of reasonable grounds to believe that an emergency existed must be applied by reference to the circumstances then confronting the officer, including the need for a prompt assessment of sometimes ambiguous information concerning potentially serious consequences. People v Rodriguez, 77 A.D.3d 280 (Board Review 18). Officers may conduct a protective sweep of an apartment to ensure that there are no weapons within the grabbable area of a person being taken into custody, if there are articulable facts leading to a belief that the person poses a threat. United States v. Hernandez, 941 F.2d 133 (Board Review 19).
A uniformed member of the service may take a person into protective custody and remove them to a hospital in an ambulance when they reasonably believe that the person is apparently mentally ill or emotionally disturbed and is conducting themself in a manner likely to result in a serious injury to themself or others. Damaging of property would not necessarily constitute an immediate threat of serious physical injury or death. The highest ranking uniformed police supervisor at the scene is in command and will coordinate police operations. <u>PG 221-13</u> (Board Review 20).
§ 87(2)(g)

Page 5
CCRB Case # 201704663

§ 87(2)(g)
It is undisputed that Sgt. Peralta determined during the incident, and prior to \$\frac{87(2)(b)}{87(2)(b)}\$ s removal to the hospital, that \$\frac{87(2)(b)}{87(2)(b)}\$ had legitimate reasons for refusing \$\frac{87(2)(b)}{87(2)(b)}\$ entry to the apartment, which refusal was, by all accounts, the impetus for the 911 call and the basis for some some some some some some some some
S 97/0Va)
§ 87(2)(g)
§ 87(2)(g)
Allegation B – Abuse of Authority: Sgt. Peralta damaged satisfies a property.  Satisfies a said in her interview that when she was removed from her apartment, she noticed that the peephole of her door had been removed, which she assumed had been done by an officer who was holding a pickaxe.  Satisfies a property.  did not mention this allegation in her phone statement or initial written statement.
All officers interviewed denied any knowledge of \$87(2)(b) s peephole being removed or her door being damaged in any way.
Under the emergency exception to the warrant requirement, officers may remove the peephole of a door prior to entering as a means of assessing a situation or convincing someone to leave an apartment, a less intrusive step than the entry itself. <u>People v. Guzman</u> , 746 N.Y.S.2d 481 (Board Review 21).
§ 87(2)(g)
Page 6

CCRB Case # 201704663

§ 87(2)(g)			
Squad: 5			
Investigator:	C:	Deine	Dete
	Signature	Print	Date
Squad Leader: _			
	Title/Signature	Print	Date
Reviewer:			
	Title/Signature	Print	Date

# Page 7 CCRB Case # 201704663